



Nebraska Revised Statute 54-601

Revised Statutes Chapter 54 54-601

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Chapter 54 Section 601

54-601.

Dogs; personal property; owner liable for damages; exceptions.

(1) Dogs are hereby declared to be personal property for all intents and purposes, and, except as provided in subsection (2) of this section, the owner or owners of any dog or dogs shall be liable for any and all damages that may accrue (a) to any person, other than a trespasser, by reason of having been bitten by any such dog or dogs and (b) to any person, firm, or corporation by reason of such dog or dogs killing, wounding, injuring, worrying, or chasing any person or persons or any sheep or other domestic animals belonging to such person, firm, or corporation. Such damage may be recovered in any court having jurisdiction of the amount claimed.

(2)(a) A governmental agency or its employees using a dog in military or police work shall not be liable under subsection (1) of this section to a party to, participant in, or person reasonably suspected to be a party to or participant in the act that prompted the use of the dog in the military or police work if the officers of the governmental agency were complying with a written policy on the necessary and appropriate use of a dog for military or police work adopted by the governmental agency and if the damage occurred while the dog was responding to a harassing or provoking act or the damage was the result of a reasonable use of force while the dog or dogs were assisting an employee of the agency in any of the following:

- (i) The apprehension or holding of a suspect if the employee has a reasonable suspicion of the suspect's involvement in criminal activity;
- (ii) The investigation of a crime or possible crime;
- (iii) The execution of a warrant; or
- (iv) The defense of a peace officer or another person other than the suspect.

(b) For purposes of this subsection, harassing or provoking act means knowingly and intentionally attempting to interfere with, interfering with, teasing or harassing such dog in order to distract, or agitating or harming such dog.

Source

Laws 1877, § 1, p. 156;
Laws 1899, c. 4, § 1, p. 54;

R.S.1913, § 172;
C.S.1922, § 169;
C.S.1929, § 54-601;
R.S.1943, § 54-601;
Laws 1947, c. 192, § 1, p. 629;
Laws 1961, c. 268, § 1, p. 786;
Laws 1992, LB 1011, § 1;
Laws 2009, LB347, § 1.

Annotations

1. Liability of owner

2. Miscellaneous

1. Liability of owner

In addition to an owner's liability under this section and common law liability for known vicious propensities, the keeper of a dog can be liable to injured third parties on a negligence theory. *Van Kleek v. Farmers Ins. Exch.*, 289 Neb. 730, 857 N.W.2d 297 (2014).

While this section exempts a dog owner from strict liability for injuries to a trespasser caused by the owner's dog, it does not cut off the common-law tort remedy available to a trespasser for a dog bite. *Guzman v. Barth*, 250 Neb. 763, 552 N.W.2d 299 (1996).

The strict liability of an owner of a dog for all damages that may accrue to any person, other than a trespasser, by reason of having been bitten by such dog, does not extend to the owners of leased property upon which the dog is harbored. *McCullough v. Bozarth*, 232 Neb. 714, 442 N.W.2d 201 (1989).

Dog owners are statutorily liable for any and all damages inflicted by their dog to any person, other than a trespasser, without proof of scienter or knowledge of the dangerous propensities of the dogs for biting and by reason of such dog or dogs killing, wounding, worrying, or chasing domestic animals. *Paulsen v. Courtney*, 202 Neb. 791, 277 N.W.2d 233 (1979).

In an action based upon statutory liability for injury by a dog, the injured person will be barred from recovering if he intentionally provoked the dog, and thereby caused it to attack him. *Paulsen v. Courtney*, 202 Neb. 791, 277 N.W.2d 233 (1979).

The merely playful acts of dogs do not give rise to a cause of action or damages hereunder. *Donner v. Plymate*, 193 Neb. 647, 228 N.W.2d 612 (1975).

Evidence was insufficient to show that injury to sheep was caused by defendant's dogs. *Norman v. Sprague*, 167 Neb. 528, 93 N.W.2d 637 (1958).

Owner of dogs not liable when evidence fails to show injuries to horses directly attributable to dogs. *Cook v. Pickrel*, 20 Neb. 433, 30 N.W. 421 (1886).

This civil dog bite statute creates a cause of action based upon strict liability on the part of the dog owner. *State v. Ruisi*, 9 Neb. App. 435, 616 N.W.2d 19 (2000).

2. Miscellaneous

1992 Neb. Laws, L.B. 1011, was prompted by a court decision in which an injured person had been unable to recover for a broken hip that had allegedly been caused by a dog, because it was not a "wound" within the meaning of this section. *Underhill v. Hobelman*, 279 Neb. 30, 776 N.W.2d 786 (2009).

The purpose of 1992 Neb. Laws, L.B. 1011, was to expand the scope of this section to include "internal damages even if there are no external damages caused by the owner's dog." *Underhill v. Hobelman*, 279 Neb. 30, 776 N.W.2d 786 (2009).

When the words killing, wounding, worrying, or chasing as used in this section are read together, they exclude playful and mischievous acts of dogs. *Holden v. Schwer*, 242 Neb. 389, 495 N.W.2d 269 (1993).

Question whether seven-year-old child was a trespasser under statute was question for jury, which should have been instructed on definition of trespasser, including element of intent. *Kenney v. Barna*, 215 Neb.

863, 341 N.W.2d 901 (1983).

This section removes the common law restriction of proving scienter or knowledge of the dangerous propensities of dogs, but only as it applies to the actions of dogs specified in the statute. *Paulsen v. Courtney*, 202 Neb. 791, 277 N.W.2d 233 (1979).

Purpose of statute is to protect domestic animals, ordinarily the prey of dogs. No right exists to kill dog for past conduct. *Brown v. Graham*, 80 Neb. 281, 114 N.W. 153 (1907).

Owner can recover value of dog killed, if not running at large. *Nehr v. State*, 35 Neb. 638, 53 N.W. 589 (1892).

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
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